

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOEL B. MONTGOMERY, et al.,

Plaintiffs,

:

Case No. 3:07-cv-470

-vs-

Magistrate Judge Michael R. Merz

:

MARY L. SANDERS, et al.,

Defendants.

**DECISION AND ORDER ON PLAINTIFFS' MOTION TO RECONSIDER
DECISION AND ORDER SCHEDULING DEPOSITIONS**

This case is before the Court on Plaintiffs' Motion to Reconsider Decision and Order Scheduling Depositions (Doc. No. 135). Plaintiffs' request that the Court order all depositions to be taken in Dayton, Ohio, at the expense of the United States.

The Motion is denied. Plaintiffs cite no authority for the proposition that a party can pick the location for deposition of a non-party witness and then compel the opposing party to produce the witness at the selected location. At least Karen Cleary and Richard Egtvedt and perhaps Allen Montgomery are beyond the subpoena power of this Court which is without authority to compel them to attend depositions in Dayton, Ohio. The Court has no objection to further negotiation between the parties about the location of depositions of Government employee witnesses, but no change in the dates, times, and places will be made without further order of the Court. In setting the depositions as it did in the Order for which reconsideration is sought, the Court has already considered the factors adverted to in the Motion for Reconsideration.

December 23, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge